

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRUMAN CAPITAL HOLDINGS LLC,

Plaintiff,

v.

MARTA D. LYALL,

Defendant.

CASE NO. 2:24-cv-01425-JNW

ORDER

MARTA D. LYALL,

Plaintiff,

v.

MITCHELL SAMBERG; DOOJIN
CHUNG; TRUMAN TRUST, LLC, LES
ZIEVE; DOES 1-6,

Defendants.

The Court considers Lyall's motions at Dkt. Nos. 22 and 24, each of which ask the Court to stay its remand of this matter to King County Superior Court. Having considered the motions, the record, and the relevant law, the Court is fully informed and denies the motions.

1 The removal statute, 28 U.S.C. § 1447(c), “requires a district court to remand
2 a case to state court when it determines the case was improvidently removed.”
3 *Seedman v. U.S. Dist. Ct. for Cent. Dist. of Cal.*, 837 F.2d 413, 414 (9th Cir. 1988).
4 “Generally, federal jurisdiction ends once a case is remanded to state court.”
5 *McFarland v. Cap. One, N.A.*, Civil Action No. TDC-18-2148, 2019 WL 5079777, at
6 *2 (D. Md. Oct. 10, 2019) (citing *Three J Farms, Inc. v. Alton Box Bd. Co.*, 609 F.2d
7 112, 115 (4th Cir. 1979)).

8 “Remand orders based on section 1447(c) are unreviewable on ‘appeal or
9 otherwise.’” *Seedman*, 837 F.3d at 414. (quoting 28 U.S.C. § 1447(d)). The Ninth
10 Circuit has held that this language “preclude[s] not only appellate review but also
11 reconsideration by the district court.” *Id.* Indeed, “[o]nce a district court certifies a
12 remand order to state court it is divested of jurisdiction and can take no further
13 action in the case.”¹ *Id.* (“A remand order [based on 28 U.S.C. § 1447(d)] returns the
14 case to the state courts and the federal court has no power to retrieve it.”). Having
15 remanded this case under 28 U.S.C. § 1447(c), the Court lacks jurisdiction over this
16 matter and thus denies Lyall’s motions to stay as moot. *See id.* (mandamus
17 appropriate where district court vacated its prior remand order).

18 In the alternative, the Court finds that Lyall is not entitled to a stay pending
19 appeal and denies the motions for that reason. “A stay is not a matter of right,’ but
20 rather is ‘an exercise of judicial discretion,’ the propriety of which ‘is dependent
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22 ¹ The Court acknowledges that it previously stayed its remand order in this case.
23 Accordingly, the Court reconsiders its Order at Dkt. No. 15.

1 upon the circumstances of the particular case.” *McFarland*, 2019 WL 5079777, at
2 *2 (quoting *Nken v. Holder*, 556 U.S. 418, 433 (2009) (citation omitted)). District
3 courts consider four factors when deciding whether to issue a stay pending appeal:
4 “(1) whether the stay applicant has made a strong showing that [s]he is likely to
5 succeed on the merits; (2) whether the applicant will be irreparably injured absent a
6 stay; (3) whether issuance of the stay will substantially injure the other parties
7 interested in the proceeding; and (4) where the public interest lies.” *Nken*, 556 U.S.
8 at 426 (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)). The moving party
9 bears the burden. *Id.*

10 Lyall has not addressed this legal test and has failed to meet it. She argues
11 that the Court must stay its remand order until her appeal has completely resolved.
12 See Dkt. No. 22 at 4. Notably, the Ninth Circuit has already dismissed her appeal
13 for lack of jurisdiction. Dkt. No. 18. Accordingly, Lyall has not made a strong
14 showing that she is likely to succeed on the merits of her appeal.

15 As for the second factor, Lyall has failed to articulate how she will suffer
16 irreparable harm absent a stay of the Court’s remand order. She contends that the
17 stay “must be reinstated until Lyall’s claims can be heard, which is her
18 constitutional right.” Dkt. No. 22 at 4. But Lyall does not have the right—much less
19 the constitutional right—to a stay pending appeal. See *Nken* 556 U.S. at 433.

20 Regarding the third factor, the Court finds that the other litigants in this matter
21 will suffer harm if a stay is granted, as they will be unable to pursue the resolution
22 of their claims in state court. Finally, the Court finds that the public interest is best
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1 served by the efficient and procedurally correct resolution of Lyall's claims on the
2 merits.

3 Accordingly, the Court ORDERS that Lyall's Motions, Dkt. Nos. 22 and 24,
4 are DENIED AS MOOT. Alternatively, the Court denies the motions on their
5 merits. All other pending motions are DENIED AS MOOT and any hearing dates
6 are STRICKEN.

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8 Dated this 3rd day of January, 2025.

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10 Jamal N. Whitehead
11 United States District Judge
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